
DEFENDANT - SMF
EXHIBIT 8

1 Q. Did you click on this link to
2 the USPS tracking ---?

3 A. No, I didn't.

4 Q. What did this tracking number
5 show?

6 A. I'm assuming that it would show
7 the progress of the aforementioned
8 letter and where it was in the delivery
9 process.

10 Q. You got this from Nancy Lewen?

11 A. Yes.

12 Q. And she sent it to your work
13 e-mail?

14 A. Yes.

15 Q. And basically she was showing
16 you that she had mailed this letter to
17 your wife, Jennifer Blasic?

18 A. Yes.

19 Q. The letter of March 1st of 2016
20 that's contained --- I'm sorry. The
21 letter of February 29th, 2016 that's
22 contained in the e-mail of March 1st,
23 2016?

24 A. Yes.

25 Q. That's Appointing Authority's

1 Exhibit Number 11?

2 A. Yes.

3 Q. Do you know whether Mrs. Blasic
4 had ever received the February 29th,
5 2016 letter from Nancy Lewen?

6 A. Yes, I do.

7 Q. How do you know about it?

8 A. Because she told me.

9 Q. Mrs. Blasic told you?

10 A. Yes. Yes, my wife told me that
11 she had received it.

12 Q. What was Mrs. Blasic's reaction
13 to having received such a letter from
14 Nancy Lewen?

15 A. To say she was upset would be
16 putting it mildly. She was not happy
17 at all.

18 Q. Was she angry with you?

19 A. Oh, yes.

20 Q. Was she angry with Ms. Lewen?

21 A. Yes.

22 Q. And you were, as I recall, in
23 the process of being divorced?

24 A. That's correct.

25 Q. Is this divorce that was going

1 on between you and Mrs. Blasic, is this
2 one of those divorces that's a friendly
3 divorce where everybody just seems to
4 separate or is it one that's not so
5 friendly?

6 A. It is not so friendly.

7 Q. You have issues with custody,
8 and property and things of that nature?

9 A. Yes.

10 Q. Did this letter help that
11 divorce process at all?

12 A. Certainly not.

13 Q. Well, how do you feel about
14 Nancy Lewen sending this letter to your
15 wife?

16 A. I was extremely upset. It
17 caused me a great deal of anxiety. I
18 was concerned that it was going to have
19 some kind of an adverse effect on our
20 custody hearing. Yeah, it was not good
21 for me at all.

22 Q. Let's talk about a couple of the
23 phrases that's contained in this letter
24 of February 29th that Ms. Lewen sent to
25 your wife. In the fourth paragraph

1 down Ms. Lewen states to your wife,
2 excuse me, but there's something not
3 quite ethical about a dad using a
4 picture of a couple teenage boys while
5 marketing himself online for a booty
6 call. Do you see that phrase?

7 A. I'm sorry. I don't see that,
8 no. No.

9 Q. You didn't see it?

10 A. Yes. I'm sorry. I do see it,

11 yes.

12 Q. How does that phrase make you
13 feel that Ms. Lewen accuses you of
14 using your children in order to get sex
15 from women? You have to speak.

16 A. Extremely irritated.

17 Q. Are you angry about it?

18 A. Yes, I am.

19 Q. She also talks about --- she
20 goes on in this letter to post your ---
21 post an address for you, a phone number
22 and says in her letter, it took five
23 minutes of sleuthing on the internet to
24 learn that your minor son is Gavin and
25 your minor daughter's name is Ivy. How

1 do you feel about the fact that she
2 went on the internet to find out the
3 names of your minor children?

4 A. Extremely angry about the whole
5 situation. It was just absolutely out
6 of line.

7 Q. Did this cause you to have any
8 fear for their personal safety?

9 A. Yeah, it did. Absolutely.

10 Q. You're familiar with the term
11 cyber stalking, Mr. Blasic?

12 A. Yes.

13 Q. Do you think that this was an
14 example of Ms. Lewen cyber stalking
15 you?

16 A. Absolutely.

17 Q. One of the things that Ms. Lewen
18 says in her letter is --- to Mrs.
19 Blasic, I think you will agree that
20 these are not the type of men who you
21 would appreciate showing up in your
22 bedroom in the middle of the night to
23 have forced sex with you or your
24 daughter having been led there by your
25 ex-husband's cheatness and stupidity

1 with online dating. What do you think
2 the intent of Ms. Lewen was in saying
3 something like that to your wife?

4 A. Intimidation. It certainly was
5 --- it seems that it would have been
6 intended to frighten her, to cause her
7 to be angry with me, any number of
8 adverse reactions.

9 Q. Well, the last phrase I want to
10 ask you about is this. Okay? It has

11 also occurred to me that maybe he
12 doesn't care at this point if some
13 rapist shows up at the door and rapes
14 you since he has primary custody
15 anyway, so the kids are safe.

16 How does it feel to you to have
17 Nancy Lewen tell your wife she thinks
18 that you don't care if somebody comes
19 to your wife's home and rapes her?

20 A. Not good at all, no.

21 Q. Are you outraged by this?

22 A. Yeah. I don't think I even have
23 words to express how it makes me feel.
24 It's just above and beyond ridiculous
25 that this even has taken place.

1 Q. At some point after Ms. Lewen
2 sent this letter to you, this horrific
3 letter of February 29th, 2016, did you
4 bring this letter to the attention of
5 the Pennsylvania Soldiers' and Sailors'
6 Home?

7 A. Not myself directly.

8 Q. How did you do it? How did it
9 come about that we got this letter?

10 A. I shared with co-workers.

11 Q. You shared it with co-workers.
12 Did they tell you to do anything with
13 the letter?

14 A. Everybody that saw it had some
15 recommendation of what to do with it,
16 but as it turned out I didn't need to.
17 Somebody else brought it to the
18 attention of the administration. I
19 didn't really have to do anything.

20 ATTORNEY BUSHINSKI:

21 Okay. If I may have a
22 moment, Mr. Zurn.

23 BY ATTORNEY BUSHINSKI:

24 Q. I'm showing you what has already
25 been introduced into the record as

1 Appointing Authority's Exhibit Number
2 2. Would you take a moment to look at
3 that?

4 WITNESS COMPLIES

5 BY ATTORNEY BUSHINSKI:

6 Q. Now, Mr. Blasic, this document
7 which has been marked as Appointing
8 Authority's Exhibit Number 2 and it
9 starts off March 7, 2016, did you
10 author this document?

11 A. Yes, I did.

12 Q. And eventually you provided this
13 to authorities at Pennsylvania
14 Soldiers' and Sailors' Home?

15 A. Yes.

16 Q. Going to the last page of the
17 document you stated that --- if you
18 could read the third paragraph that
19 says, I found this behavior unsettling.
20 Would you read that into the record,
21 please?

22 A. I found this behavior
23 unsettling. As I began to talk with
24 others they expressed concern for my
25 personal safety and that of my children

1 and ex-wife. I realized this was far
2 more serious than I had initially
3 thought. I began to look through older
4 messages Nancy Lewen had sent.

5 I found one dated December 7th,
6 2015 that made reference to getting a
7 gun from a vehicle in the parking lot
8 and shooting someone. I immediately
9 forwarded this to my DON.

10 Q. You had never actually sat down
11 and filed a formal written complaint
12 about sexual harassment from Nancy
13 Lewen; correct?

14 A. That's correct.

15 Q. This is your only written
16 complaint?

17 A. Yes.

18 Q. Did Ms. Lewen's actions affect
19 your ability to perform your job in any
20 way?

21 A. Yes, it did.

22 Q. How did that happen or how did
23 it affect your ability to perform your
24 job?

25 A. Initially it was just a great

1 deal of discomfort on my part and then
2 it began to be increased anxiety,
3 difficulty concentrating at work, but
4 when this all started to come to a head
5 at work, the one day I came to work and
6 everybody --- it seemed like everybody
7 knew about it.

8 They all approached me as I
9 would be walking around trying to
10 perform my duties throughout the day.
11 Everyone would stop me, what's going
12 on, what's up with this and that,
13 asking questions. I was not able to
14 really effectively get any of my work
15 done that day due to anxiety,
16 interruptions.

17 That particular day I ended up
18 asking if I could go home early, which
19 I did, and there were --- with all
20 these e-mails that I continued to
21 receive and it just kind of compounded
22 itself along those same lines. Just
23 every time I turn around it's, you
24 know, more communications for no
25 particular reason causing anxiety,

1 frustration, et cetera.

2 Q. So you did miss work because of
3 this?

4 A. Yes, I did.

5 Q. After she sent this letter, this
6 horrific letter to your wife, did she
7 continue to --- did she communicate
8 with you by e-mail?

9 A. Yes.

10 Q. Does she continue to communicate
11 with you by e-mail to this day?

12 A. As recently as yesterday, yes.

13 Q. Do you want this kind of e-mail
14 contact with her?

15 A. No, I don't.

16 Q. And these e-mails that you
17 receive after she was terminated, do
18 these cause you in any way to feel
19 anxious or in fear of your own personal
20 safety?

21 A. Absolutely.

22 Q. Has Ms. Lewen attempted to
23 communicate with your wife after she
24 was fired on March 14, 2014 --- 2016
25 rather?

1 A. Other than that one letter I
2 don't believe so.

3 Q. She hasn't sent additional
4 letters to your wife?

5 A. Not that I can recall.

6 Q. All right. Thank you. Last
7 thing I want to talk to you about, Mr.
8 Blasic. Ms. Lewen alleges that the
9 Pennsylvania Soldiers' and Sailors'

10 Home fired her because she retaliated
11 against --- in retaliation rather for
12 the --- for her making complaints of
13 resident abuse and resident neglect to
14 the Department of Health and the Office
15 of Attorney General.

16 That's what she's claiming. Do
17 you recall whether Ms. Lewen had ever
18 discussed making complaints to the
19 Department of Health and the Attorney
20 General's Office with you by means of
21 Facebook messages?

22 A. Yes.

23 Q. Did you ever tell anyone at the
24 Pennsylvania Soldiers' and Sailors'
25 Home that Ms. Lewen had made a referral

1 of resident abuse or resident neglect
2 to the Commonwealth of Pennsylvania,
3 Department of Health or the
4 Commonwealth of Pennsylvania, Office of
5 Attorney General?

6 A. No.

7 ATTORNEY BUSHINSKI:

8 Thank you. No other

9 questions.

HEARING OFFICER:

10 Ms. Lewen, your
11 opportunity to examine Mr. Blasic.

12 CROSS EXAMINATION

13 BY MS. LEWEN:

14 Q. On my first night here at
15 Pennsylvania Soldiers' and Sailors'
16 Home you orientated me, if you remember
17 correctly. Why did that happen and why
18 didn't the RN orientate me? You don't
19 know?

20 A. I have no idea.

21 Q. Do you remember when I walked in
22 and I said hello to the RN who I was
23 supposed to report to and I said hello?
24 Do you remember what happened after
25

1 that when I introduced myself?

2 A. No, I don't.

3 Q. You don't recall me being
4 screamed at by the RN in charge that I
5 reported to and her telling me that she
6 was told she would never have to
7 orientate anyone ever again? You don't
8 remember that?

9 ATTORNEY BUSHINSKI:

10 objection. She's
11 testifying at this point. I know Ms.
12 Lewen is not an attorney and she
13 doesn't understand the purpose of Cross
14 Examination, but right now she's
15 testifying rather than cross examining.

16 HEARING OFFICER:

17 But it is a difficult
18 thing, Ms. Lewen. Just ask the
19 questions.

20 MS. LEWEN:

21 Okay. I'll skip my
22 orientation.

23 HEARING OFFICER:

24 Yeah, you'll have an
25 opportunity to testify on your own

1 behalf. Right now we're just
2 questioning Mr. Blasic.

3 MS. LEWEN:

4 Okay.

5 HEARING OFFICER:

6 Thank you.

7 MS. LEWEN:

8 Mr. Bushinski did allude
9 to the Facebook message that --- in
10 this one record regarding ---.

11 BY MS. LEWEN:

12 Q. Do you recall the day in
13 December when I revealed to you about
14 my diagnosis of PTSD? Do you recall
15 the circumstances of that?

16 A. The only recollection I have
17 regarding your revelation of PTSD would
18 be from the messages that I have.

19 Q. You don't remember what happened
20 that day earlier?

21 A. Only what was in the message
22 that you ---.

23 Q. You don't know what happened in
24 person and officially that day that
25 caused me to break down in tears?

1 A. No.

2 MS. LEWEN:

3 I have another exhibit
4 later on from Kathy Wilcox's testimony
5 which does address that, so I'll just
6 --- if Barry doesn't remember, he
7 doesn't remember.

8 BY MS. LEWEN:

9 Q. Are you aware that I'm an
10 ~~overcomer of domestic violence?~~

11 A. From the messages that you
12 shared, yes.

13 Q. I think we became Facebook
14 friends last August when you were going
15 through your divorce. Do you recall me
16 saying anything nice to you,
17 supportive? Was it all threatening or
18 was it ---?

19 A. No, it certainly wasn't all
20 threatening.

21 Q. And was it all private or was it
22 public? Do you recall me saying
23 anything publicly to you on Facebook
24 that was supportive of you?

25 A. Nothing specific, but I'm not

1 saying that it didn't happen.

2 Q. Did I ever publicly threaten you
3 on Facebook?

4 A. I don't believe so.

5 Q. Did I ever privately threaten,
6 other than threatening to make chicken
7 noodle soup for you when you were sick?

8 A. I guess that would depend on how
9 you want to interpret your own

10 communications with me.

11 Q. Do you recall posting --- I
12 don't want to use the word nasty. Do
13 you recall posting anything not nice
14 about your wife publicly on Facebook?

15 ATTORNEY BUSHINSKI:

16 Objection. I can't see
17 how this could possibly be relevant in
18 any way.

19 HEARING OFFICER:

20 Well, Ms. Lewen, where
21 are you going with this with regard to
22 Mr. ---?

23 MS. LEWEN:

24 Because he's defending
25 his ex-wife, by the same token he was

1 very cruel to her last fall because she
2 committed adultery and that ended their
3 --- you know, I'll drop that as well.

4 HEARING OFFICER:

5 Thank you.

6 BY MS. LEWEN:

7 Q. How did you know about online
8 dating sites?

9 A. Online dating sites are fairly
10 common knowledge.

11 Q. Do you remember me giving you
12 several different online dating sites?

13 A. I remember you mentioning online
14 dating sites and maybe thought that I
15 should make a profile, yes.

16 Q. Correct. And so you made this
17 one; right?

18 ATTORNEY BUSHINSKI:

19 Objection. She has to
20 introduce it as ---.

21 MS. LEWEN:

22 I have ---.

23 HEARING OFFICER:

24 Okay. Well, let's ---.

25 MS. LEWEN:

1 Actually, I think I don't
2 have enough. Well, I'll give you this,
3 but I do have four copies.

4 HEARING OFFICER:

5 Did you mark it with
6 anything?

7 MS. LEWEN:

8 I have.

9 HEARING OFFICER:

10 ~~So we don't confuse it,~~
11 let's mark all the copies the same way.
12 We're going to mark them AP-2.

13 (Dating Site Profile --
14 produced and marked for
15 identification as
16 Appellant Exhibit Number
17 2.)

18 MS. LEWEN:

19 And that's in the bottom
20 right hand corner?

21 HEARING OFFICER:

22 And wherever you want to
23 put it, just ---.

24 MS. LEWEN:

25 A?

1 HEARING OFFICER:

2 AP-2.

3 MS. LEWEN:

4 AP-2.

5 HEARING OFFICER:

6 Show the first one to

7 Counsel, please.

8 ATTORNEY BUSHINSKI:

9 Thank you.

10 BY MS. LEWEN:

11 Q. I'd like to ask you why --- when
12 it asked personality type why are you
13 saying princess there? Why do you
14 consider yourself to be a princess?

15 A. I found it amusing.

16 Q. And on the profession where it
17 says LPN superstar, why do you consider
18 yourself to be an LPN superstar?

19 A. Again, found it amusing.

20 Q. And why are you pointing out on
21 your online dating profile that you're
22 not a serial killer, ---

23 A. Stalker, ---

24 Q. --- stalker ---

25 A. --- mentally unstable.

1 Q. --- or mentally unstable?

2 A. Again, because it amuses me.

3 Q. You find it amusing. Okay. And

4 then here it does --- you did put your

5 e-mail address on here ---

6 A. I did.

7 Q. --- and your name, Barry? No

8 one else did this for you? You were

9 the one who put that?

10 A. I was.

11 MS. LEWEN:

12 That's all.

13 A. No one else did that. No one

14 else put my name on my own dating

15 profile.

16 HEARING OFFICER:

17 Thank you.

18 BY MS. LEWEN:

19 Q. You didn't do that to intimidate

20 your ex-wife or --- that was just

21 all ---?

22 MS. LEWEN:

23 Okay. All right.

24 A. No. No, I did not.

25 MS. LEWEN:

1 I'll just drop any
2 further. I have my own opinions
3 regarding Barry's situation with his
4 ex-wife. So I'll just drop any --- all
5 of that.

6 BY MS. LEWEN:

7 Q. Let me ask you something. How
8 often do you think we've --- we
9 originally worked together when I first
10 got hired here and for several months
11 after that ---. I don't recall what
12 month you went to dayshift. What month
13 did you go to dayshift?

14 A. It was April of 2015.

15 Q. So you're good. From that time
16 April until March when I was
17 terminated, how often would you say
18 that we actually worked together in the
19 workplace?

20 A. From the time that I went to
21 dayshift?

22 Q. Right.

23 A. Very infrequently because you
24 were on third shift.

25 Q. Right.

1 A. Correct?

2 Q. Right. When, in fact, we never
3 were --- would you say that we ever
4 worked together? And the next
5 question ---.

6 A. (Indicates no).

7 MS. STOVALL:

8 Yes or no?

9 A. No.

10 BY MS. LEWEN:

11 Q. And the next question would be,
12 how often do you think that we actually
13 even crossed paths during shift change
14 in the past 12 months until my
15 termination?

16 A. I couldn't even guess.

17 Q. Would you say less than five,
18 less than ten?

19 A. I would say possibly ten.

20 Q. In a period of a year? I would
21 say probably five, but we'll agree on
22 that. It's been less than ten times in
23 the past year that we've actually ever
24 even crossed paths for a few minutes,
25 let alone worked together; right?

1 A. Certainly.

2 MS. LEWEN:

3 I don't have any other
4 questions.

5 HEARING OFFICER:

6 Thank you.

7 ATTORNEY BUSHINSKI:

8 I have one on Redirect.

9 REDIRECT EXAMINATION

10 BY ATTORNEY BUSHINSKI:

11 Q. Mr. Blasic, as an LPN of
12 Pennsylvania Soldiers' and Sailors'
13 Home you could be assigned at any time
14 to work with Ms. Lewen; isn't that
15 correct?

16 A. Yes.

17 ATTORNEY BUSHINSKI:

18 I have no other
19 questions. Mr. Zurn, I would move for
20 the admissions of my exhibits.

21 HEARING OFFICER:

22 We have 10, 11 and 12;

23 AA-10, 11 and 12?

24 ATTORNEY BUSHINSKI:

25 Yes, Appointing

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1 Authority's Exhibits 10, 11 and 12.

2 HEARING OFFICER:

3 Any objection, Ms. Lewen?

4 MS. LEWEN:

5 No.

6 HEARING OFFICER:

7 Would you like to move
8 the --- your AP-2 in?

9 MS. LEWEN:

10 Yes, I would.

11 ATTORNEY BUSHINSKI:

12 I object. I don't have
13 any objection as to its authenticity.
14 My objection is strictly as to its
15 relevance.

16 HEARING OFFICER:

17 And I'm going to note
18 your objection and I'm going to allow
19 this to be made a part of the record.

20 MS. LEWEN:

21 Thank you.

22 ATTORNEY BUSHINSKI:

23 Thank you. Don't go out
24 of the --- okay?

25 A. Okay.

1 ATTORNEY BUSHINSKI:

2 Mr. Zurn, can I ask for a
3 recess?

4 HEARING OFFICER:

5 I think that'd be a
6 wonderful aspect. How many more
7 witnesses do you have?

8 ATTORNEY BUSHINSKI:

9 They're going to be
10 shorter, so I only have three more.
11 One is going to be very brief and they
12 will all be much shorter than Mr.
13 Blasic and Mr. Bender.

14 HEARING OFFICER:

15 Well, my question is
16 should we break at this point in time
17 and have some lunch or shall we finish
18 out your case?

19 ATTORNEY BUSHINSKI:

20 I would be quite happy to
21 continue to lunch if you are. I would
22 like to have five minutes just to look
23 at my documents.

24 HEARING OFFICER:

25 Okay. All right. Let's

1 do it that way. Ms. Lewen, is that
2 acceptable to you?

3 MS. LEWEN:

4 Yes.

5 HEARING OFFICER:

6 Okay. So we'll just take
7 a five-minute break here and ---.

8 SHORT BREAK TAKEN

9 HEARING OFFICER:

10 Okay. This is your next

11 witness?

12 ATTORNEY BUSHINSKI:

13 It is.

14 HEARING OFFICER:

15 Raise your right hand.

16 -----

17 BRIAN SKINNER, HAVING FIRST BEEN DULY
18 SWORN, TESTIFIED AS FOLLOWS:

19 -----

20 HEARING OFFICER:

21 Please be seated. For
22 the record your name?

23 A. First name is Brian, B-R-I-A-N.

24 Last name is Skinner, S-K-I-N-N-E-R.

25 HEARING OFFICER:

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1 Just one? Just one N?
2 Oh, two. And you're employed here at
3 the Soldiers' and Sailors' Home?

4 A. Yes. I'm a Human Resources
5 Analyst 2.

6 HEARING OFFICER:

7 How long have you been
8 here?

9 A. Four and a half years.

10 HEARING OFFICER:

11 Thank you.

12 ATTORNEY BUSHINSKI:

13 Thank you, Mr. Zurn.

14 DIRECT EXAMINATION

15 BY ATTORNEY BUSHINSKI:

16 Q. Mr. Skinner, as a Human
17 Resources Analyst 2 for Pennsylvania
18 Soldiers' and Sailors' Home, do you
19 have access to the personal records ---
20 the personnel records of PSSH's
21 employees?

22 A. Yes.

23 Q. Do you have access to records of
24 training kept on PSSH employees?

25 A. Yes.

1 Q. And disciplinary records?

2 A. Yes.

3 Q. Are such records kept in the
4 normal course of business by someone
5 here at the Pennsylvania Soldiers' and
6 Sailors' Home?

7 A. Yes.

8 Q. All right. Let's talk about
9 Nancy Lewen. In regard to her, can you

10 tell me when she was first hired at
11 PSSH?

12 A. September 29th, 2014.

13 Q. And when was she fired?

14 A. March 14th, 2016.

15 Q. In regard to discipline imposed
16 on her, did PSSH impose any form of
17 discipline on her prior to her
18 termination of March 14th, 2016?

19 A. Yes.

20 ATTORNEY BUSHINSKI:

21 Let me see the --- okay.

22 BY ATTORNEY BUSHINSKI:

23 Q. Mr. Skinner, I'm showing you
24 what's been marked as Appointing
25 Authority's Exhibit Number 13. Can you

1 identify for the record what that
2 document is?

3 (12/15/15 Letter --
4 produced and marked for
5 identification as
6 Appointing Authority
7 Exhibit Number 13.)

8 A. This is an oral reprimand that
9 was issued to Ms. Lewen on December

10 15th of 2015?

11 ATTORNEY BUSHINSKI:

12 All right. Thank you.

13 Next one?

14 MS. STOVALL:

15 Fourteen (14).

16 (2/14/16 Written
17 Reprimand -- produced and
18 marked for identification
19 as Appointing Authority
20 Exhibit Number 14.)

21 BY ATTORNEY BUSHINSKI:

22 Q. I'm showing you what's been
23 marked as Appointing Authority's
24 Exhibit Number 14. Can you identify
25 what this document is for the record?

1 A. This is a written reprimand
2 issued to Ms. Lewen on February 24th of
3 2016.

4 Q. Other than these reprimands
5 which are written and oral, did PSSH
6 impose any other sort of discipline on
7 Ms. Lewen other than her termination of
8 March 14th of 2016?

9 A. No, she had no other discipline.

10 Q. Thank you. In the March 14th,
11 2016 termination letter that Mr. Bender
12 testified to there are a number of
13 policies referenced. One of these
14 policies is the DMVA standards of
15 conduct and work rules.

16 MS. STOVALL:

17 Next one?

18 ATTORNEY BUSHINSKI:

19 This one here

20 (indicating).

21 MS. STOVALL:

22 Oh, that one?

23 ATTORNEY BUSHINSKI:

24 Are they out of order?

25 ATTORNEY BUSHINSKI:

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1 Yeah, you gave them to me
2 out of order. Yep.

3 ATTORNEY BUSHINSKI:

4 All right. We'll go out
5 of order and I'll clarify. Okay?

6 MS. STOVALL:

7 All right. All right.
8 Sixteen (16).

9 (Standard of Conduct &

10 Work Rule Signature --
11 produced and marked for
12 identification as
13 Appointing Authority
14 Exhibit Number 16.)

15 BY ATTORNEY BUSHINSKI:

16 Q. I'm showing you what has been
17 marked out of order as Appointing
18 Authority Exhibit Number 16. Can you
19 please identify what that document is
20 for the record?

21 A. This is the acknowledgement that
22 the employee has gone over the
23 standards of conduct and work rules and
24 then signed off on it.

25 Q. And does that document bear

1 Nancy Lewen's signature?

2 A. Yes, it does.

3 Q. And the date that she received
4 that document?

5 A. December 20th of 2014.

6 ATTORNEY BUSHINSKI:

7 All right. Let's go
8 back.

9 MS. STOVALL:

10 Okay. Fifteen (15).

11 ATTORNEY BUSHINSKI:

12 No, this was --- go to
13 the one that we should have put in
14 before.

15 MS. STOVALL:

16 It was this. It'd be 15.
17 (Training Course Log --
18 produced and marked for
19 identification as
20 Appointing Authority
21 Exhibit Number 15.)

22 ATTORNEY BUSHINSKI:

23 Okay. Fine.

24 MS. STOVALL:

25 There you go, Mr. Zurn.

1 BY ATTORNEY BUSHINSKI:

2 Q. I'm showing you what has been
3 marked as Appointing Authority's
4 Exhibit Number 15. This is the one
5 that was --- that I should have had
6 before. Can you identify what this
7 document is for the record?

8 A. This is her electronic, I would
9 call it training record for all the
10 courses she completed online.

11 Q. Now, does anywhere on this
12 document show that she had training in
13 the acceptable use of the
14 Commonwealth's information technology
15 policy?

16 A. Yes.

17 Q. Is there any training on sexual
18 harassment?

19 A. Yes.

20 Q. And where would we find that she
21 had completed courses on sexual
22 harassment and on the Commonwealth's
23 acceptable use of information
24 technology?

25 A. She completed the

1 discrimination, sexual harassment
2 prevention course on October 8th of
3 2014. And she completed security
4 awareness and acceptable use policy two
5 different dates. One was December 7th
6 of 2014. Then she completed again ---
7 which is an annual course. Did it
8 again on October 24th of 2014.

9 ATTORNEY BUSHINSKI:

~~All right. Thank you.~~

10
11 No other questions.

12 HEARING OFFICER:

13 Any questions of Mr.

14 Skinner?

15 ATTORNEY BUSHINSKI:

16 I'm sorry. I do have one
17 other question. I'm sorry, Mr. Zurn.

18 BY ATTORNEY BUSHINSKI:

19 Q. I'm showing you what we --- has
20 been marked as Appointing Authority's
21 Exhibit Number 17.

22 (IT Employee Agreement --
23 produced and marked for
24 identification as
25 Appointing Authority

Exhibit Number 17.)

BY ATTORNEY BUSHINSKI:

Q. Can you identify what this document is for the record?

A. This is the IT resource acceptable use policy user agreement that the employee signs off on after they have read the IT acceptable use.

Q. And is Ms. Lewen's signature on this document?

A. Yes.

Q. And she signed it when?

A. On December 20th of 2014.

ATTORNEY BUSHINSKI:

Now I have no further questions, Mr. Zurn.

HEARING OFFICER:

Ms. Lewen, do you have any questions of Mr. Skinner?

MS. LEWEN:

I don't have questions for him, but I would like to submit as evidence my attendance record, my performance evaluations. Is now an appropriate time to do that?

1 HEARING OFFICER:

2 No. I'm going to allow
3 you to do that when it's your turn to
4 testify, yes.

5 MS. LEWEN:

6 No, I don't have any
7 questions for Mr. Skinner.

8 HEARING OFFICER:

9 Thank you, Mr. Skinner.

10 ATTORNEY BUSHINSKI:

11 Can you get Mr. Hamm?

12 HEARING OFFICER:

13 You have five exhibits.
14 Do you want those made a part of the
15 record?

16 ATTORNEY BUSHINSKI:

17 I do. Where did we ---?

18 MS. STOVALL:

19 Thirteen (13), 14, 15 ---
20 five of them, yeah.

21 ATTORNEY BUSHINSKI:

22 All right. Starting with
23 Appointing Authority's Exhibit Number
24 13 through Appointing Authority's
25 Exhibit Number 17 I move for their

1 admission into the record.

2 HEARING OFFICER:

3 Any objection, Ms. Lewen?

4 MS. LEWEN:

5 No.

6 HEARING OFFICER:

7 Made a part of the
8 record. And is this your next witness?

9 ATTORNEY BUSHINSKI:

10 ~~It is~~

11 HEARING OFFICER:

12 Can I ask you to stand
13 for a moment?

14 -----
15 RAYMOND HAMM, HAVING FIRST BEEN DULY
16 SWORN, TESTIFIED AS FOLLOWS:
17 -----

18 HEARING OFFICER:

19 I didn't ask you to raise
20 your hand.

21 A. I'm sorry.

22 HEARING OFFICER:

23 I know you did. For the
24 record, your name?

25 A. Raymond Hamm, R-A-Y-M-O-N-D,

1 H-A-M-M.

2 HEARING OFFICER:

3 And, Mr. Hamm, you are
4 employed here at Soldiers' and Sailors'
5 Home?

6 A. Yes.

7 HEARING OFFICER:

8 And your position, sir?

9 A. Registered nurse supervisor.

10 HEARING OFFICER:

11 A nurse supervisor?

12 A. Yes.

13 HEARING OFFICER:

14 And you've been with the
15 Soldiers' and Sailors' Home since when?

16 A. 2002.

17 HEARING OFFICER:

18 Thank you. You may
19 proceed.

20 ATTORNEY BUSHINSKI:

21 Thank you, Mr. Zurn.

22 DIRECT EXAMINATION

23 BY ATTORNEY BUSHINSKI:

24 Q. Mr. Hamm, would you please
25 explain the chain of command that

1 exists at the Pennsylvania Soldiers'
2 and Sailors' Home in --- as it existed
3 in regards to Nancy Lewen? Who would
4 have been her supervisor and her
5 supervisor's supervisor?

6 A. I believe her direct supervisor
7 was Caroline Williams, but I was also
8 supervising. Ms. Caroline was a
9 part-time supervisor. If there was any
10 concerns of any of us as supervisors
11 they would go to the ADON, and then to
12 the DON and then to the Commonwealth.

13 Q. At times did you directly
14 supervise her?

15 A. I would say I would, yes.

16 Q. And had she not been fired would
17 you be directly supervising her at
18 times?

19 A. I'm sorry?

20 Q. Had she not been fired had ---
21 would there be occasions you would now
22 directly supervise her if she hadn't
23 been fired?

24 A. Yes, I would be directly
25 supervisor right now as her --- I would

1 be, yes.

2 Q. Now, have you known her since
3 she's been hired as PSSH?

4 A. Yes.

5 Q. Did you know her out of work at
6 all?

7 A. No.

8 Q. Do you have any out of work
9 contact with her at all?

10 A. No.

11 Q. I'm going to invite your
12 attention to February 21st of 2016. On
13 that date February 21st, 2016, did
14 anything unusual occur between you and
15 Ms. Lewen?

16 A. I believe that was the incident
17 regarding a paper that she handed me.
18 I'm sorry.

19 Q. So what occurred? What
20 happened?

21 A. Well, I came in and she handed
22 me what she stated was a grievance
23 form, that she was going to hand in,
24 but wanted me to view it first. So I
25 started looking it over and she started

1 laughing.

2 Q. Let me interrupt you before you
3 continue on here. Okay? Where were
4 you when Ms. Lewen --- when this
5 happened?

6 A. In the unity nurse's station.

7 Q. Was there anybody else around?

8 A. I don't think so, no.

9 Q. So Ms. Lewen handed you a paper?

10 A. Uh-hun (yes)

HEARING OFFICER:

11 Is that a yes?

12
13 A. Yes. Sorry.

HEARING OFFICER:

14 Thank you.

15
16 BY ATTORNEY BUSHINSKI:

17 Q. And you stated she was laughing?

18 A. Yes, she started laughing, so I
19 thought it was a joke and I said, is
20 this a joke? And she said, no, it's
21 just the look on your face.

22 Q. Mr. Hamm, I'm showing you what I
23 had marked as Appointing Authority's
24 Exhibit Number 18.

25 (Ms. Lewen's Written

151

1 Statement -- produced and
2 marked for identification
3 as Appointing Authority
4 Exhibit Number 18.)

5 BY ATTORNEY BUSHINSKI:

6 Q. Can you identify that document
7 for the record, please?

8 HEARING OFFICER:

9 Can I ask you just one

10 question?

11 ATTORNEY BUSHINSKI:

12 Sure.

13 HEARING OFFICER:

14 Why is this paperclipped?

15 ATTORNEY BUSHINSKI:

16 Oh, I'm sorry.

17 HEARING OFFICER:

18 Excuse me. The paperclip

19 is supposed to ---?

20 ATTORNEY BUSHINSKI:

21 It should be stapled,

22 yes.

23 HEARING OFFICER:

24 I get really disturbed
25 with the paperclip because papers fall

1 out of here. The other thing is it's
2 got connected on to something else and
3 something else.

4 ATTORNEY BUSHINSKI:

5 We're going to get a
6 stapler and staple it.

7 HEARING OFFICER:

8 Can we do that? I really
9 would appreciate that. We're not
10 getting stapled into other stuff.

11 Okay? Thank you.

12 ATTORNEY BUSHINSKI:

13 Very good. We'll get
14 that squared away, Mr. Zurn.

15 BY ATTORNEY BUSHINSKI:

16 Q. Mr. Hamm, referring to that
17 document, Appointing Authority's
18 Exhibit Number 18, can you identify
19 what that document is for the record?

20 A. This looks like the paper that
21 she handed me while ---.

22 Q. So that was one of the documents
23 she handed you on February 21st of
24 2016?

25 A. Yes.

MS. LEWEN:

1 Can I object to it? Is
2 that appropriate?
3

ATTORNEY BUSHINSKI:

4 Mr. Zurn is the person
5 you should direct your comments to. I
6 really can't talk to you directly.
7

HEARING OFFICER:

8 The nature of the
9 objection?
10

MS. LEWEN:

11 I didn't hand this to Ray
12 that night. They had obtained this
13 from my personal e-mail. I had
14 e-mailed this from my home e-mail to my
15 work e-mail. I never handed this to
16 Ray. I have the one that I did hand to
17 Ray with me, which was on a witness
18 statement and ---.
19

HEARING OFFICER:

20 This is AA-19. Does that
21 look familiar?
22

ATTORNEY BUSHINSKI:

23 That's the next one I was
24 going to introduce, ---
25

1 MS. LEWEN:

2 Right.

3 ATTORNEY BUSHINSKI:

4 --- Mr. Zurn.

5 MS. LEWEN:

6 What I object to is Mr.
7 Hamm says that he recognizes this, but
8 he shouldn't unless he accessed my
9 e-mail account without my permission.

10 I never gave ---.

11 A. The content that I'm reading ---
12 I'm not paying attention to the
13 headlines or anything, but the content
14 within here, it's familiar.

15 MS. LEWEN:

16 Okay. All right.

17 HEARING OFFICER:

18 Thank you.

19 A. I was reading the content.

20 HEARING OFFICER:

21 Overrule your objection

22 and move on. Thank you.

23 BY ATTORNEY BUSHINSKI:

24 Q. Mr. Hamm, I'm going to show you
25 what has been marked as Appointing

1 Authority's Exhibit Number 19.

2 (Commonwealth of
3 Pennsylvania Witness
4 Statement -- produced and
5 marked for identification
6 as Appointing Authority
7 Exhibit Number 19.)

8 BY ATTORNEY BUSHINSKI:

9 Q. Can you identify this document
10 for the record?

11 A. Yes, I would agree that this was
12 likely the form that she handed me.
13 Like I said before, I was just reading
14 the content.

15 Q. So you're agreeing with Ms.
16 Lewen that Appointing Authority Exhibit
17 Number 18 was something she did not
18 hand to you on February 21st, but that
19 she handed you Appointing Authority's
20 Exhibit Number 19?

21 A. Yes.

22 Q. That's a fair statement?

23 A. Sure.

24 Q. That's fine. Were you surprised
25 when she handed you these documents?

1 A. I was.

2 Q. Did you read any part of them?

3 A. I didn't read it all because at
4 some point --- I can't tell you at what
5 point I stopped, but I looked at her
6 and I said, you know, this isn't true.
7 And she shrugged her shoulders and
8 said, my word against yours.

9 Q. At some point when you were
10 reading these documents did you ask her
11 whether she was joking?

12 A. I did because she started
13 laughing and I said --- at first I
14 said, you know, because I thought we
15 got along pretty well up to that point.
16 I said, is this a joke? And she said,
17 no, it's just the look on your face.

18 Q. Did she say that in a laughing
19 manner?

20 A. No.

21 Q. You thought that this was
22 serious though?

23 A. I thought it was serious.

24 Q. In regard to the statements that
25 Ms. Lewen made in Appointing Authority

1 Exhibit Number 19, you considered these
2 statements to be true or do you
3 consider them to be false?

4 A. I consider what she wrote up in
5 here false.

6 Q. Did you tell her that her
7 statements were not true?

8 A. Yes.

9 Q. And did she respond to your
10 statement that these statements are not
11 true?

12 A. Yes. That's when she said, you
13 know, my word against yours.

14 Q. I'm going to show you what has
15 been marked or introduced into the
16 record already --- if I can find it.

17 ATTORNEY BUSHINSKI:

18 If I may have a moment,
19 Mr. Zurn. I'm trying to find my
20 exhibit. Oh, here they are. Too many
21 papers.

22 BY ATTORNEY BUSHINSKI:

23 Q. I'm showing you what's already
24 introduced into the record as
25 Appointing Authority's Exhibit Number

1 1, Appellant's Exhibit Number 1. This
2 is a joint document that has been
3 introduced into the record by agreement
4 of Ms. Lewen and myself. Would you
5 refer to page 11 of this exhibit,
6 please?

7 A. Okay.

8 Q. Are you at page 11?

9 A. Yes, sir.

10 Q. All right. Now, referring to
11 lines number 8 through 12. Actually, 7
12 through 12. Would you please read that
13 starting at number 7?

14 A. Nancy Lewen, Monday, February
15 22nd, 2016 at 2:51 p.m. I have a few
16 minutes to kill before ---.

17 MS. STOVALL:

18 Hold on. You have to
19 speak up and slow down.

20 A. Oh, I'm sorry.

21 BY ATTORNEY BUSHINSKI:

22 Q. Let's stop there a second. So
23 this is an e-mail from Nancy Lewen to
24 Barry Blasic on February 22nd, 2016.
25 Now, please start with number 8 and go

1 through number 12 slowly.

2 A. I have a few minutes to kill
3 before I have to be at the school bus
4 stop. I was just wondering how you
5 feel. I feel like I honestly wouldn't
6 mind feeling how you feel sometime. I
7 didn't feel that way last night with
8 Ray when he was mind blown and
9 defending himself against my

10 ~~allegations and I was giggling in the~~
11 middle of the night with no witnesses.
12 I felt devious, no doubt, but really
13 don't feel like feeling Ray to see how
14 he felt.

15 Q. Have you seen that e-mail at all
16 prior to today?

17 A. (Indicates no).

18 MS. STOVALL:

19 Yes or no?

20 A. No.

21 BY ATTORNEY BUSHINSKI:

22 Q. Is that description of --- Ms.
23 Lewen's description of herself
24 accurate? Was she giggling like that
25 during her encounter with you?

1 A. Yeah, she was. Yeah.

2 Q. Did her demeanor and her
3 statement to you question her motives
4 in writing the witness statement?

5 A. Yes, I was quite shocked by it.

6 Q. What do you think that she was
7 doing by handing you these --- by
8 handing you that witness statement?

9 A. I guess I can only surmise that

10 --- and this is just my personal
11 feeling that she was saying, you know,
12 look at all the things that I can write
13 up in here and all the things that I
14 could do, but I don't really know what
15 specifically it meant.

16 Q. Do you feel like she was trying
17 to intimidate you at all by doing this?

18 A. Yes.

19 Q. Do you feel like she was trying
20 to bully you?

21 A. Yes.

22 Q. Did you report this meeting and
23 this document to anyone?

24 A. It was pretty late in the
25 morning. I'm sorry. This document

1 itself, well, what she --- we had spent
2 some time discussing this because I
3 said, you know, if there really was
4 something --- I said, if there's
5 something really concerning you, I
6 said, you know, I would be willing to
7 work this out with you.

8 And so then she said, well, ---
9 she took that copy and held it and then
10 gave me a copy and said, this is for
11 you. And then I left the unit and then
12 I was late leaving home, and then I
13 popped my head into Kathy Wilcox's
14 office and said, Nancy did have some
15 concerns she said and I just went over
16 a couple of the things that I remember
17 at that time that she had wrote.

18 Q. Mr. Hamm, Ms. Lewen is claiming
19 that the real reason that she was fired
20 from her job here at the Pennsylvania
21 Soldiers' and Sailors' Home was that
22 she had made a whistleblower complaint,
23 a complaint of resident abuse and
24 neglect to the Department of Health and
25 the Office of the Attorney General, the

1 Commonwealth of Pennsylvania.

2 She states that --- she's told
3 me that she made these statements to
4 Barry Blasic and Mr. Blasic has
5 testified to that effect, that she had
6 made some statements to him. Did Barry
7 Blasic ever tell you that Nancy Lewen
8 had made complaints of resident abuse
9 or resident neglect to the Commonwealth

10 of Pennsylvania, Department of Health
11 or the Commonwealth of Pennsylvania
12 Office of the Attorney General?

13 A. No.

14 Q. Did anyone ever tell you that
15 Nancy Lewen had made such complaints?

16 A. No.

17 ATTORNEY BUSHINSKI:

18 Nothing further.

19 HEARING OFFICER:

20 Do you have any questions
21 of Mr. Hamm, Ms. Lewen?

22 MS. LEWEN:

23 Just a couple.

24 CROSS EXAMINATION

25 BY MS. LEWEN:

1 Q. Do you ever joke on the job,
2 Ray?

3 A. Sure.

4 Q. Yes?

5 A. Yes.

6 Q. And in the unsigned witness
7 statement that I gave you that night
8 did you feel like we had sort of
9 resolved it, that I had intended to

10 ~~actually file a claim with the EEOC~~
11 against you or did you feel like we
12 just resolved it?

13 A. I felt like we were going to
14 have --- we were going to get together
15 and try to find out what your concerns
16 were. So if there was anything I could
17 do to avoid any grievances that I would
18 be all for that.

19 Q. When I brought up in this four-
20 page document --- which I'm not going
21 to have anybody read right now, but in
22 the concerns that I had do you recall
23 me ever accusing ---? Let me reword
24 that.

25 Do you recall what the

1 accusations that I was making had to do
2 with regulatory compliance issues and
3 fraud, the possibility of fraud, to do
4 with staffing?

5 A. I remember you saying something
6 about staffing.

7 Q. So it was very serious
8 allegations; correct?

9 A. From what I read the things you
10 had on there as far as demeanor and
11 stuff like that, I didn't find any of
12 that to be true. You did bring up a
13 couple of concerns about staffing and
14 stuff like that, which I would have
15 been more than willing to sit and talk
16 with you about.

17 And I believe I was stating that
18 as far as our numbers go, we have one
19 on one in that unit and that's really
20 all that I can do as far as that goes.

21 Q. Do you believe --- in the best
22 of your knowledge of regulations do you
23 believe on the nightshift --- not on
24 the nightshift. Do you believe in a
25 24-hour period that has 10 nursing

165

1 staff members on unit C is sufficient
2 to meet regulatory guidelines? Did I
3 word that correctly?

4 ATTORNEY BUSHINSKI:

5 I'm going to object to it
6 however you worded it, okay, on the
7 basis of relevance. It can't possibly
8 have any relevance to these
9 proceedings.

10 MS. LEWEN:

11 I believe it does because
12 that's what I was complaining of. I
13 was complaining of the fact that they
14 were going against regulatory
15 guidelines. I was calling it to the
16 attention of my supervisor who does
17 joke. How do you bring it to the
18 attention of a supervisor that
19 administrators are attempting to pin
20 fraud on that supervisor?

21 ATTORNEY BUSHINSKI:

22 Mr. Zurn, I'm going to
23 object at this point. Now she's
24 testifying and also, you know, I
25 understand Ms. Lewen is not an attorney

1 and she's not really familiar with the
2 etiquette that usually incurs in these
3 proceedings, but I really can't answer
4 her questions directly. She needs to
5 make those kind of remarks to you and
6 not to me.

7 HEARING OFFICER:

8 Ms. Lewen, what is the
9 question you're asking Mr. Hamm?

10 MS. LEWEN.

11 My question for him is,
12 in his best knowledge of the applicable
13 regulations for the assisted living
14 facility, which is unit C, which is the
15 unit that's in this older building, in
16 his opinion according to the
17 regulations does he feel that 10
18 nursing staff members in a 24-hour day
19 --- 24-hour time period is sufficient
20 to meet regulatory guidelines. That's
21 my question.

22 HEARING OFFICER:

23 Were you objecting to the
24 aspect that you were being overworked
25 by having not enough people? Is that

1 what you're --- was that the nature of
2 what you had in this complaint that you
3 showed him?

4 MS. LEWEN:

5 I was suggesting that I
6 had overheard --- and it's hearsay.

7 HEARING OFFICER:

8 Overheard.

9 MS. LEWEN:

10 I had overheard that ---.

11 HEARING OFFICER:

12 You overheard that there
13 was something wrong?

14 MS. LEWEN:

15 Right. And it was ---.

16 HEARING OFFICER:

17 And you were asking him a
18 question with regard to what you
19 overheard?

20 MS. LEWEN:

21 Right. I was bringing it
22 into ---.

23 HEARING OFFICER:

24 In that case I'm going to
25 uphold the objection and ask you to go

1 on to another question, please.

2 MS. LEWEN:

3 That's all. No further
4 questions.

5 HEARING OFFICER:

6 Thank you.

7 ATTORNEY BUSHINSKI:

8 I have nothing further.

9 Nothing on Redirect.

HEARING OFFICER:

10 Thank you very much, Mr.

11 Hamm.

12 A. Thank you.

13 HEARING OFFICER:

14 Appreciate you being

15 here.

16 ATTORNEY BUSHINSKI:

17 Now, as far as my
18 exhibits go and as far as Mr. Hamm's
19 concern we have AA-18, which Ms. Lewen
20 has properly objected to. And I would
21 agree that that should not enter the
22 record.

23 HEARING OFFICER:

24 Fine. We will remove

25

1 that from the record. Thank you.

2 ATTORNEY BUSHINSKI:

3 And Appointing
4 Authority's Exhibit Number 19 I move
5 for the admission of that to the
6 record.

7 HEARING OFFICER:

8 Any objection to 19?

9 MS. LEWEN:

10 No, sir. I have the
11 witness statement of Ray Hamm that I
12 would like to submit. I have copies.

13 HEARING OFFICER:

14 I'm going to allow you to
15 do that at --- a witness statement from
16 Mr. Hamm?

17 MS. LEWEN:

18 Uh-huh (yes).

19 HEARING OFFICER:

20 Did you want to question
21 him about that witness statement? You
22 just lost your chance to do that
23 because ---.

24 MS. LEWEN:

25 Oh, I'm sorry. I won't

1 submit it then. That's okay.

2 HEARING OFFICER:

3 Okay. All right. AA-19,
4 no objection to that?

5 MS. LEWEN:

6 No.

7 HEARING OFFICER:

8 Made a part of the
9 record. Thank you.

10 ATTORNEY BUSHTINSKI:

11 Kathy Wilcox is my next
12 witness.

13 HEARING OFFICER:

14 Good afternoon. Would
15 you raise your right hand?

16 -----
17 KATHLEEN WILCOX, HAVING FIRST BEEN DULY
18 SWORN, TESTIFIED AS FOLLOWS:
19 -----

20 HEARING OFFICER:

21 Thank you. Please be
22 seated. And for the record your name,
23 spelling your name?

24 A. Kathleen Wilcox,
25 K-A-T-H-L-E-E-N, W-I-L-C-O-X.

171

1 HEARING OFFICER:

2 And, Ms. Wilcox, you are
3 employed here by the Soldiers' and
4 Sailors' Home?

5 A. Yes, I am.

6 HEARING OFFICER:

7 And your position?

8 A. The Director of Nursing.

9 HEARING OFFICER:

10 And how long have you
11 held that position?

12 A. Approximately three and a half
13 years.

14 HEARING OFFICER:

15 How long have you been
16 here?

17 A. Since 1988.

18 HEARING OFFICER:

19 You started when you were
20 12?

21 A. Exactly. Thank you.

22 HEARING OFFICER:

23 Maybe it was five. Okay.
24 Thank you.

25 A. You're welcome.

You may proceed, Co

BY ATTORNEY BUSHINSKI:

BY ATTORNEY BUSHNELL

Q. Ms. Wilcox, do you participate or use the social media platform known as Facebook?

A. Yes, I do.

A. Yes, I do.

Q. In February of 2016, did you

0. ~~IN RE: PSSH~~
become aware of a Facebook post on
Nancy Lewen's Facebook page in which
she alleged that PSSH was
discriminating against her?
member apprised

A. Yes. A staff member apprised me of that post.

Q. What did you do when you learned about this post?

A. I asked for a meeting with Nancy.

Q. Did you meet with her?

A. Yes, I did.

Q. On what date?

Q. On what date?

A. That would be February 25th.

Q. What did you discuss in the meeting?

1 A. The post and also her concerns
2 about her supervisor, Ray Hamm.

3 Q. During the course of this
4 meeting February 25th, 2016, did Nancy
5 Lewen make any complaints to you about
6 Ray Hamm personally?

7 A. No. When we were having
8 discussion she said that she didn't
9 want to see Ray Hamm get into any
10 trouble.

11 Q. She didn't make any complaint
12 about him mistreating her?

13 A. No.

14 ATTORNEY BUSHINSKI:

15 Let me see AA-19.

16 BY ATTORNEY BUSHINSKI:

17 Q. I'm showing you what has been
18 marked and introduced into the record
19 as Appointing Authority's Exhibit
20 Number 19. Can you identify that
21 document for the record, please?

22 A. Commonwealth witness statement
23 written by Nancy Lewen.

24 Q. Did Ms. Lewen give you that
25 document on February 25th of 2016?

1 A. No, she did not.

2 Q. How did you get it?

3 A. Her supervisor Ray Hamm.

4 Q. Did you read the document?

5 A. I did.

6 Q. Regarding the substance of the
7 documents, the allegations contained in
8 there, do you have an opinion as to
9 whether those allegations in that

10 document are true or false?

11 A. I would say false.

12 Q. Are they true in any way?

13 A. No.

14 Q. In regard to her presenting this
15 to Mr. Ray Hamm as a complaint or a
16 grievance are complaints or grievances
17 usually handled in this manner?

18 A. No, they're not. If a
19 supervisor and an employee cannot work
20 it out amongst themselves, then they go
21 up the chain of command, which would be
22 the assistant director of nursing or
23 myself.

24 Q. All right. During your meeting
25 with Ms. Lewen on February 25th of

1 2016, did she mention anything at all
2 about getting a gun and shooting people
3 at PSSH?

4 A. She did not. What she said was
5 that a dayshift supervisor had yelled
6 at her and asked if I --- if that
7 supervisor had told me. And I had told
8 her I wasn't certain if that supervisor
9 had came in to tell me about what
10 happened. Ms. Lewen then said that
11 they --- that she forgave her, forgave
12 the supervisor, but that the
13 supervisors would need to be careful
14 because anyone else could go to their
15 vehicle and return with a gun and shoot
16 them.

17 Q. Did you think that she was
18 talking about herself when she said
19 anyone else?

20 A. I wasn't certain, but I was
21 concerned enough to report that to my
22 boss, which is Barbara Raymond and
23 Brian Skinner.

24 Q. Thank you. I'm showing you what
25 has been marked as Appointing

1 Authority's Exhibit Number 20.

2 (Ms. Lewen's Facebook
3 Page -- produced and
4 marked for identification
5 as Appointing Authority
6 Exhibit Number 20.)

7 BY ATTORNEY BUSHINSKI:

8 Q. Take a moment to look at that,
9 please. Are you familiar with that
10 document?

11 A. Excuse me. I am.

12 Q. Is this document what is
13 commonly called screenshots of a
14 Facebook page?

15 A. Yes.

16 Q. Did you provide these documents
17 to the Pennsylvania Soldiers' and
18 Sailors' Home?

19 A. I did because I was surprised
20 that they're from another employee that
21 this is on Facebook, all of the posts.

22 Q. And how did these documents come
23 into your possession? How did you get
24 them?

25 A. I printed them from my computer

1 in my office.

2 Q. Did you change or alter these
3 documents in any way, shape or form?

4 A. No. I wouldn't even know how.

5 Q. I just want to refer --- ask you
6 to refer to the third page of the
7 document. Maybe I'm wrong on the page.
8 Hold on a second. Yes. I'm talking
9 about the right thing. This would be

10 the Facebook message --- I'm going to
11 point it to you.

12 A. What page?

13 Q. This would be third page. I
14 have these front and back, so it would
15 be the third printed page.

16 A. Right here (indicating)?

17 Q. Right down there.

18 A. Right here.

19 Q. And does Ms. Lewen state in that
20 Facebook message that she said that she
21 admits the message I sent to Barry
22 Blasic while off duty could have been
23 construed as harassing? Can you read
24 that?

25 A. Yes.

1 Q. Did you change or alter that
2 passage in any way?

3 A. No, I did not.

4 Q. Ms. Wilcox, Ms. Lewen claims
5 that PSSH had fired her in retaliation
6 for making complaints to the
7 Commonwealth of Pennsylvania,
8 Department of Health and the Department
9 of Pennsylvania Office of Attorney
10 General for resident abuse and/or
11 resident neglect.

12 She says that she made these
13 complaints --- she says rather she told
14 these things to Barry Blasic and
15 believes I think that Mr. Blasic passed
16 them on to the authorities of Soldiers'
17 and Sailors' Home. Now, do you --- as
18 the Director of Nursing is Barry Blasic
19 effectively one of your subordinates?

20 A. He is.

21 Q. Did he ever have a conversation
22 with you in which he told you that
23 Nancy Lewen made complaints to the
24 Department of Health or the Office of
25 Attorney General?

1 A. No, he did not.

2 Q. Did anyone bring these --- did
3 anyone prior to March 14th of 2016 tell
4 you that Nancy Lewen had made
5 complaints to the Department of Health
6 or Office of Attorney General?

7 A. No. When the Department of
8 Health comes in the building it's
9 anonymous. The call is anonymous to us
10 and that's what they tell us when they
11 come in.

12 ATTORNEY BUSHINSKI:

13 Nothing further.

14 HEARING OFFICER:

15 Ms. Lewen, do you have
16 any questions of ---?

17 MS. LEWEN:

18 I just have one brief
19 question.

20 HEARING OFFICER:

21 Ask.

22 CROSS EXAMINATION

23 BY MS. LEWEN:

24 Q. On this Facebook post ---?

25 A. Are we back on page ---

1 Q. Yeah.

2 A. --- three?

3 Q. On the one where I said I
4 admitted that it can be construed as
5 harassing. Were you aware of what I
6 was talking about? Because actually
7 what I was talking about was the
8 chicken noodle threat, the chicken
9 noodle soup threat. I meant it in a

10 jokingly manner. ~~Were you aware of~~
11 that?

12 A. Can you please repeat the
13 question? Was I aware that ---?

14 Q. Were you aware of what --- I
15 said, I admitted the message I sent to
16 Barry, that I sent while off duty,
17 could have been construed as harassing,
18 but surely that wouldn't be enough to
19 get me suspended from my job for
20 bullying, would it? Were you aware of
21 what message I was talking about?

22 A. Yes.

23 Q. The chicken noodle soup threat?

24 HEARING OFFICER:

25 Do you understand the

1 question, Ms. Wilcox?

2 A. I don't know.

3 HEARING OFFICER:

4 If you don't know you can
5 say you don't know.

6 A. Yeah, I don't know.

7 MS. LEWEN:

8 You had read it just a
9 little --- you had pointed it out to
10 Barry Blaisie just a little bit ago from
11 the Facebook messages and you had read
12 it aloud where he was sick that one day
13 and I threatened him with chicken
14 noodle soup?

15 ATTORNEY BUSHINSKI:

16 Again, Mr. Zurn, I don't
17 think she understands that she needs to
18 direct her remarks to you.

19 MS. LEWEN:

20 I'm sorry, Mr. Zurn.
21 When I made this comment on Facebook I
22 was ---.

23 HEARING OFFICER:

24 You're explaining why you
25 made the comment?

1 MS. LEWEN:

2 Yeah.

3 HEARING OFFICER:

4 Ms. Wilcox says she
5 doesn't know what ---

6 MS. LEWEN:

7 Right.

8 HEARING OFFICER:

9 --- it was.

10 MS. LEWEN:

11 Because she wasn't aware
12 of what I was ---.

13 HEARING OFFICER:

14 So we'll go on from
15 there. That's the end of your
16 question. You will have an opportunity
17 to testify on your own behalf.

18 MS. LEWEN:

19 Right. Okay..

20 HEARING OFFICER:

21 Okay? Okay. So if you
22 want to go to that on you're on behalf
23 you can tell the Court what your view
24 is of the situation.

25 MS. LEWEN:

1 Okay.

2 HEARING OFFICER:

3 Any other questions of

4 Ms. Wilcox?

5 BY MS. LEWEN:

6 Q. When I had mentioned in that
7 four-page unsigned document that I gave
8 to Ray Hamm about the staffing
9 situation, did you think that I was

10 talking about the assisted living unit
11 or the skilled unit?

12 A. It's not an assisted living
13 unit. It's a personal care unit.
14 We're regulated under personal care,
15 regulation 2600. Not assisted living
16 2800.

17 Q. Well, see, then I wish we could
18 have just talked about this because I
19 was going by assisted living.

20 A. Personal care.

21 MS. LEWEN:

22 I wish that we could have
23 really just talked about this. I was
24 greatly --- I thought that they went by
25 assisted living regulations.

1 HEARING OFFICER:

2 Well, now you can
3 clarify, so ---.

4 MS. LEWEN:

5 Right.

6 BY MS. LEWEN:

7 Q. So there was no actual fraud?

8 A. That's why I had said that.

9 Q. And then you had said PPD and I
10 thought you were ---.

11 MS. LEWEN:

12 I thought this whole
13 thing was showing that ---. And I
14 brought the long term care regulation
15 all with me here to show that I know
16 how to calculate PPD for the skilled
17 side. I wish that we could have just
18 talked about this. I really do, but
19 --- and as far as the Facebook
20 posts ---.

21 HEARING OFFICER:

22 Do you have any further
23 questions of Ms. Wilcox?

24 MS. LEWEN:

25 Yes.

1 HEARING OFFICER:

2 Please, direct your
3 questions to her.

4 BY MS. LEWEN:

5 Q. Do you recognize this? I have
6 copies of it.

7 A. I do.

8 ATTORNEY BUSHINSKI:

9 I don't have that

10 ~~document in front of me~~

11 MS. LEWEN:

12 Right. I have it here
13 for you.

14 HEARING OFFICER:

15 Just hold on now. Do you
16 want to put this into the --- do you
17 want to put this in?

18 MS. LEWEN:

19 I would like to submit
20 this as evidence. This is the Facebook
21 post that I made. Oh, I guess I'll
22 have to ---.

23 HEARING OFFICER:

24 This is a Facebook page
25 when, and where, and what, and --- are

1 you going to introduce this?

2 MS. LEWEN:

3 I'm sorry.

4 HEARING OFFICER:

5 Are you going to
6 introduce this ---

7 MS. LEWEN:

8 Yes, I am.

9 HEARING OFFICER:

10 --- for your own

11 testimony or do you have a question on
12 this particular thing of Ms. Wilcox?

13 Ms. Lewen, do you understand where you
14 are? At this point in time you are
15 acting as your --- as an attorney.

16 Okay? You are not Ms. Lewen. You are
17 an attorney for Ms. Lewen.

18 You are to ask Ms. Wilcox
19 any questions. Okay? Are you going to
20 throw out pieces of paper and say does
21 she know something about this or --- is
22 that what you're planning to do?

23 BY MS. LEWEN:

24 Q. Is this the post that you
25 referred to in your witness --- in your